

REMARKS

Applicant's Agent thanks Examiner Vo for the opportunity to discuss the outstanding rejection during an interview conducted at the P.T.O. on April 18, 2006. Briefly, Applicant's Agent argued that the fibrillated foam of Perez et al. had a fibrous or schistose morphology contrasting the instant foam morphology. Samples of the materials and digital micrographs were provided. No agreement was reached, but Examiner Vo agreed to further consider Applicant's arguments and proposed claim 1 be limited to cell sizes of 100 micrometers or less.

Claims 1-13, 17-19 and 22-56 are pending. Claims 14, 15, 16, 20 and 21 have been canceled. Claims 37 to 56 have been withdrawn from consideration. Claims 1, 30, 31, 33, 34 and 37 are amended. No claims have been added. Claim 1 is amended to include the limitation that the instant foam layer has an average cell size prior to orientation. Basis for the amendment may be found on page 4, line 18-19 and page 20, line 7. Claim 1 is amended at the suggestion of the Examiner, and confirmed during a telephone conversation on April 27th, 2006. Claim 37 is amended to depend from claim 1.

§ 112 Rejections

Claims 1-13, 17-19 and 26 to 36 stand rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically the Office Action asserts the clause "optional thermoplastic film layer" render the claim ambiguous because the claim further recites ink receptive surfaces that may be selected from a corona treated film layer and a thermoplastic polymer layer having an ink receptive coating.

The rejection is overcome by amendments to claim 1. Applicants have deleted the clause "optional thermoplastic film layer" which was introduced by amendment of December 29, 2005. Applicant's intention was to provide clear antecedent basis for additional thermoplastic film layer in the dependent claims.

Applicants submit that the rejection of claims 1-13, 17-19 and 26 to 36 under 35 USC § 112, second paragraph, has been overcome, and that the rejection should be withdrawn.

Claims 30, 31, 33 and 34 stand rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

Applicants regard as the invention. Specifically the Office Action asserts the word “comprises” nested in the closed language “consisting of” renders the claim indefinite.

In response, the claims have been amended to substitute the word “is” for the word “comprising”. Withdrawal of the rejection is solicited.

102 Rejections

Claims 1-6, 8-10, 22-24, 26-29, 33 and 36 stand rejected under 35 USC § 102(a) as being anticipated by U.S. 6,468,451(Perez et al.). Claim 11 stands rejected under 35 USC § 102/103(a) as anticipated by, or in the alternative as obvious in view of U.S. 6,468,451(Perez et al.). The rejections are traversed in part and overcome in part by arguments previously presented and amendments presented herewith.

Claim 1 is amended to include the limitation “cell sizes of 100 micrometers or less” to distinguish over the fibrous and schistose materials of the reference. Examiner Vo confirmed that the rejections over Perez et al. would be withdrawn in view of the amendment.

The rejection of claims 1-6, 8-10, 22-24, 26-29, 33 and 36 under 35 USC § 102(a) as being anticipated by U.S. 6,468,451(Perez et al.) has been overcome and should be withdrawn.

§ 103 Rejections

Claims 7 and 13 stand rejected under 35 USC § 103(a) as being unpatentable over U.S. 6,468,451(Perez et al.).

Claim 12 stands rejected under 35 USC § 103(a) as being unpatentable over U.S. 6,468,451(Perez et al.) in view of U.S. 5,605,729 (Mody et al.).

Claims 17-19, 25, 30-32, 34 and 35 stand rejected under 35 USC § 103(a) as being unpatentable over U.S. 6,468,451(Perez et al.) in view of U.S. 5,807,632 (Pedginski et al.)

Each of the rejections under 35 USC § 103(a) have been rendered moot by the amendment to claim 1 by agreement with the Examiner.

Other Issues

In a telephone conversation with Examiner Vo on April 27, 2006, the withdrawal of the Perez et al. rejections, in view of Applicant's amendments and previous arguments, was affirmed.

The Examiner noted new grounds of rejection may be issued in view of U.S. Published Appln. 2003/0105176 (Haas et al) and U.S. 6,583,188 (Chaudhary et al.). In a telephone conversation of April 28, 2006, U.S. 6,359,791 (Chaudhary et al.) was also discussed. It is noted that U.S. '188 and U.S. '791 are related by a common priority Provisional Application No. 60/168,702 filed 12/3/1999. It is further noted that U.S. Published Appln. 2003/0105176 (Haas et al) and the instant application share a common inventor.

Applicants are under no obligation to respond to possible rejections that have not been entered. However in an effort to advance prosecution, the following preliminary remarks are submitted.

U.S. Published Appln. 2003/0105176 (Haas et al) describes a process for preparing a high melt strength foam. The resulting article is said to be useful as tape backings, thermal an acoustic insulation, low dielectric substrates, and as diffuse reflectors in optical applications. The reference provides no teaching or suggestion that the reference foam article would be useful as an ink-receptive substrate. Further, there is no teaching or suggestion of the Markush group of ink-receptive surfaces of claim 1.

The Examiner noted that page 7, paragraph 92 teaches corona discharge. Applicants notes that the paragraph is directed to an adhesive tape construction comprising the reference foam having an adhesive layer bonded to a surface thereof. The paragraph states that the release properties (i.e. the force required to unwind a section of adhesive tape from the roll) may be modified by various means including "applying a low surface energy composition, priming, corona discharge, flame treatment, roughening, etching, and combinations".

There is nothing in the cited reference that suggests that any of the means for modifying the release properties of the reference adhesive tape would render the article suitable for printing. Specifically, there is no teaching or suggestion that treating the reference foam article with corona would render the treated foam ink-receptive. The Examiner is applying hindsight reconstruction using the instant disclosure for support a purported rejection, which is

impermissible under M.P.E.P. 2143; *In re Vaeck*, 947 F.2nd 488, 20 USPQ2nd 1438 (Fed Cir. 1991).

U.S. 6,583,188 (Chaudhary et al.) is directed to a grafted blend composition for the preparation of fabricated articles, especially foams. The reference does not teach Applicant's high melt strength polypropylene. In a "first embodiment" the reference describes (column 17, line 60 to column 18, line 9) a grafted blend of

- 1) two or more substantially random interpolymers;
- 2) two or more olefinic polymers;
- 3) two or more alkenyl aromatic polymers;
- 4) one or more substantially random interpolymers and one or more olefinic polymers;
- 5) one or more substantially random interpolymers, and one or more alkenyl aromatic polymers; or
- 6) one or more olefinic polymers, and one or more alkenyl aromatic polymers; or
- 7) one or more substantially random interpolymers, and one or more alkenyl aromatic polymers; or
- 8) one or more olefinic polymers, one or more substantially random interpolymers and one or more alkenyl aromatic polymers.

Applicant's high melt strength polypropylene is not a grafted blend of any of the eight reference combinations. At column 18, lines 21 to 35, the reference composition is described (briefly) as:

- (A) one or more homopolymers or interpolymers with peak crystalline melting temperature (T_m) and/or glass transition temperature (T_g by DSC) of 90°C or more; and
- (B) one or more homopolymers or interpolymers with peak crystalline melting temperature (T_m) and/or glass transition temperature (T_g by DSC) of 80°C or less; and
- (C) one or more coupling agents.

Applicant's high melt strength polypropylene is not a grafted polymer resulting from reference components (A) + (B) + (C), as (B) and (C) are entirely absent, and component (A) is described so broadly as to include many thousands of polymers which are outside the scope of

the instant claims. In particular, reference component (C) is entirely absent, as Applicant's polymer is not a grafted polymer.

Under a second embodiment, the reference compositions are described as follows:

(A) one or more linear or substantially linear ethylene homopolymers or interpolymers and one or more branched ethylene homopolymers or interpolymers; or

(B) one or more linear or substantially linear ethylene homopolymers or interpolymers and one or more substantially random interpolymers; or

(C) one or more linear or substantially linear ethylene homopolymers or interpolymers, one or more branched ethylene homopolymers or interpolymers and one or more substantially random interpolymers; all of which blends are grafted with,

(D) one or more coupling agents.

Each of the "embodiment two" compositions are ethylene homopolymers or interpolymers, grafted with a second polymer. Applicant's high melt strength polypropylene is not an ethylene-grafted polymer, and contains no coupling agent.

Further, Chaudhary et al. provides no suggestion of providing the reference foams with the Markush group of ink-receptive surfaces of claim 1. The Examiner bases the purported rejection at the reference disclosure at column 28, lines 50-51, which states "[t]he film of the invention may be printed".

The reference provides no teaching or suggestion of Applicant's Markush group of ink-receptive surfaces, and there is no teaching or suggestion of modifying the reference films by the ink-receptive surfaces of claim 1. Applicants submit the reference films *per se*, may be printed without the modification suggested by the Examiner.

As Applicants have not been provided with proper grounds for a rejection, a full and complete response is not possible. Should the Examiner not be persuaded by these preliminary arguments, the Examiner is requested to issue new grounds of rejection and withdraw the finality, as the new grounds would not be necessitated by the amendment presented herewith.

In view of the above, it is submitted that the application is in condition for allowance. Reconsideration of the application is requested. As the amendment presented herewith overcomes all outstanding rejections, Applicants would request rejoinder of process claims 37-56 under the procedures of M.P.E.P. 821.04, as the claims depend from allowable claim 1.

Allowance of claims 1-13, 17-19 and 22-56, as amended, at an early date is solicited.

Respectfully submitted,

Date

May 1, 2006

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